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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/594,045	06/27/2007	Koji Nakayama	1217-062849	8969
	7590 01/24/2008 AW FIRM, P.C.	EXAMINER		
700 KOPPERS		·	TRAN, TRANG Q	
436 SEVENTH PITTSBURGH			ART UNIT	PAPER NUMBER
FILISBURGH	, I A 13217		2811	
				·
			MAIL DATE	DELIVERY MODE
	•		01/24/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)			
	10/594,045	NAKAYAMA ET AL.			
Office Action Summary	Examiner	Art Unit			
	Trang Q. Tran	2811			
The MAILING DATE of this communication appeared for Reply	opears on the cover sheet with th	e correspondence address			
A SHORTENED STATUTORY PERIOD FOR REPI WHICHEVER IS LONGER, FROM THE MAILING I  - Extensions of time may be available under the provisions of 37 CFR I after SIX (6) MONTHS from the mailing date of this communication.  - If NO period for reply is specified above, the maximum statutory period  - Failure to reply within the set or extended period for reply will, by statu Any reply received by the Office later than three months after the maili earned patent term adjustment. See 37 CFR 1.704(b).	DATE OF THIS COMMUNICAT .136(a). In no event, however, may a reply b d will apply and will expire SIX (6) MONTHS to te, cause the application to become ABANDO	ION. e timely filed from the mailing date of this communication. DNED (35 U.S.C. § 133).			
Status					
1) Responsive to communication(s) filed on 27.	Responsive to communication(s) filed on <u>27 June 2007</u> .				
,	·				
,	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is				
closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.					
Disposition of Claims					
4) ⊠ Claim(s) <u>1-9</u> is/are pending in the application. 4a) Of the above claim(s) is/are withdra 5) □ Claim(s) is/are allowed. 6) □ Claim(s) is/are rejected. 7) □ Claim(s) is/are objected to. 8) ⊠ Claim(s) <u>1-9</u> are subject to restriction and/or expressions.	awn from consideration.				
Application Papers		•			
9) The specification is objected to by the Examination The drawing(s) filed on 27 June 2007 is/are:  Applicant may not request that any objection to the Replacement drawing sheet(s) including the correction The oath or declaration is objected to by the Examination is objected to by the Examination III.	a) ☑ accepted or b) ☐ objected e drawing(s) be held in abeyance. ection is required if the drawing(s) is	See 37 CFR 1.85(a). objected to. See 37 CFR 1.121(d).			
Priority under 35 U.S.C. § 119					
<ul> <li>12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).</li> <li>a) All b) Some * c) None of:</li> <li>1. Certified copies of the priority documents have been received.</li> <li>2. Certified copies of the priority documents have been received in Application No.</li> <li>3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</li> <li>* See the attached detailed Office action for a list of the certified copies not received.</li> </ul>					
Attachment(s)  1) Notice of References Cited (PTO-892)  2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  3) Information Disclosure Statement(s) (PTO/SB/08)  Paper No(s)/Mail Date	4) Interview Summ Paper No(s)/Ma 5) Notice of Inform 6) Other:				

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## **DETAILED ACTION**

## Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-3, drawn to a bipolar type semiconductor device, classified in class 257, subclass 77.

Group II, claim(s) 4-9, drawn to a process for manufacturing a bipolar type semiconductor device, classified in class 438, subclass 492.

The inventions are independent or distinct, each from the other because:

Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make another and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the process as claimed can be used to make another and materially different product; i.e. a bipolar device does not require an epitaxial growth is carried out is in the range of 0.1 to 0.6 nm.

Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above

and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

- (a) the inventions have acquired a separate status in the art in view of their different classification;
- (b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;
- (c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);
- (d) the prior art applicable to one invention would not likely be applicable to another invention;
- (e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Applicant is advised that the reply to this requirement to be complete <u>must</u> include (i) an election of a invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

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The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention.

If claims are added after the election, applicant must indicate which of these claims are readable upon the elected invention.

Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

## Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Trang Q. Tran whose telephone number is 571-270-3259. The examiner can normally be reached on Mon - Thu (9am-5pm).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne A. Gurley can be reached on 571-272-1670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TT

SUPERVISORY PATENT EXAMINER
AU284, TC284